

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOSEPH MICHAEL DEVON ENGEL,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:20-cv-01894-SEP
)	
ERDCC, et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on review of Plaintiff Joseph Michael Devon Engel's self-represented complaint. For the reasons discussed below, the Court will order Plaintiff to file a signed, amended complaint on a Court-provided form. Plaintiff will also be directed to either file a motion to proceed in forma pauperis or pay the full \$400 filing fee. Plaintiff will have twenty-one (21) days to comply with this Memorandum and Order.

Complaint

Plaintiff filed this action pursuant to 42 U.S.C. § 1983 on December 11, 2020. Plaintiff's handwritten complaint is not on a Court-provided form. Plaintiff brings this action against two defendants: the Eastern Reception, Diagnostic and Correctional Center (ERDCC) and the Missouri Department of Corrections (MDOC). He sues Defendants in their individual and official capacities.

Plaintiff claims that on November 7, 2020, he was denied religious materials. He states that this action was in violation of his First Amendment rights. However, Plaintiff does not indicate which religion he practices. Plaintiff does not specify exactly who denied him religious material, nor does Plaintiff identify exactly the material he was purportedly denied by the unknown person at ERDCC. Plaintiff has also not provided facts within his complaint indicating why he believes this denial was a violation of his First Amendment rights.

For relief in this action, Plaintiff seeks compensatory and what appear to be punitive damages.

Plaintiff Engel has not filed his complaint on a Court-provided form. He also has not filed a motion to proceed in forma pauperis on a separate Court-provided form or an accompanying prison account statement.

Discussion

Plaintiff's complaint is deficient as pleaded. First, Plaintiff has not stated a claim upon which relief can be granted. Second, Plaintiff has not named a proper defendant in this action. Third, the complaint is not on a Court-provided form as required by Eastern District of Missouri Local Rule 2.06(A). The complaint is subject to dismissal for these reasons, but the Court will allow Plaintiff the opportunity to remedy these deficiencies in an amended complaint according to the instructions below.

Pleading deficiencies

Liability under 42 U.S.C. § 1983 requires a causal link to, and direct responsibility for, the alleged deprivation of rights. *Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990); *see also Martin v. Sargent*, 780 F.2d 1334, 1338 (8th Cir. 1985) (claim not cognizable under § 1983 where the plaintiff fails to allege that the defendant was personally involved in or directly responsible for incidents that injured plaintiff); *Boyd v. Knox*, 47 F.3d 966, 968 (8th Cir. 1995) (respondeat superior theory inapplicable in § 1983 suits). Under the Free Exercise Clause of the First Amendment, a plaintiff must first raise a question of fact regarding whether the prison has placed a substantial burden on his ability to practice his or her religion. *Patel v. U.S. Bureau of Prisons*, 515 F.3d 807, 813 (8th Cir. 2008); *see also Weir v. Nix*, 114 F.3d 817, 820 (8th Cir. 1997) (stating that “[a]s an initial matter, a person claiming that a governmental policy or action violates his right to exercise his religion freely must establish that the action substantially burdens his sincerely held religious belief”). “To constitute a substantial burden, the government policy or actions must significantly inhibit or constrain conduct or expression that manifests some central tenet of a person’s individual religious beliefs; must meaningfully curtail a person’s ability to express adherence to his or her faith; or must deny a person reasonable opportunities to engage in those activities that are fundamental to a person’s religion.” *Murphy v. Mo. Dep’t of Corrs.*, 372 F.3d 979, 988 (8th Cir. 2004). In the instant action, Plaintiff has not set forth any facts indicating that any of the named defendants were directly involved in or personally responsible for placing a substantial burden on his ability to practice his religion. As a result, the complaint fails to state a claim upon which relief can be granted.

Moreover, Plaintiff has not named a proper defendant. A suit against the Missouri Department of Corrections and ERDCC is a claim against the State of Missouri. In the absence of a waiver, the Eleventh Amendment bars a § 1983 suit against a state entity or an individual employed by the state in his official capacity. *Morstad v. Dep't of Corr. & Rehab.*, 147 F.3d 741, 744 (8th Cir. 1998). In the absence of a proper defendant, the complaint fails and is subject to dismissal.

Instructions for amendment

Because Plaintiff is self-represented, the Court will give him the opportunity to file a signed, amended complaint to properly set forth his claims for relief. Plaintiff should type or neatly print his complaint on the Court's prisoner civil rights form, which will be provided to him. *See* E.D. Mo. L.R. 2.06(A) ("All actions brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms where applicable."). In the "Caption" section of the Court-provided form, Plaintiff should clearly name each and every party he intends to sue. *See* Fed. R. Civ. P. 10(a) ("The title of the complaint must name all the parties").

In the "Statement of Claim" section, Plaintiff should provide a short and plain statement of the factual allegations supporting his claim. *See* Fed. R. Civ. P. 8(a). Plaintiff should put each claim into a numbered paragraph, and each paragraph should be "limited as far as practicable to a single set of circumstances." Fed. R. Civ. P. 10(b). Plaintiff should begin by writing the defendant's name. In separate, numbered paragraphs under that name, Plaintiff should write a short and plain statement of the factual allegations supporting his claim against that specific defendant. If Plaintiff is suing more than one defendant, he should follow the same procedure for each defendant.

It is important that Plaintiff establish the responsibility of each separate defendant for harming him. That is, for each defendant, Plaintiff must allege facts showing how *that particular defendant's* acts or omissions violated his constitutional rights. *See Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990) ("Liability under § 1983 requires a causal link to, and direct responsibility for, the deprivation of rights."). It is not enough for Plaintiff to make general allegations against all defendants as a group. Rather, Plaintiff needs to provide the role of each named defendant in this case, such that each specific defendant can know what he or she is accused of doing. *Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 848 (8th Cir. 2014) (stating that the essential function of a complaint "is to give the opposing party fair notice

of the nature and basis or grounds for a claim”) (internal quotations and citation omitted). The Court emphasizes that the “Statement of Claim” requires more than “labels and conclusions or a formulaic recitation of the elements of a cause of action.” *Neubauer v. FedEx Corp.*, 849 F.3d 400, 404 (8th Cir. 2017) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

Plaintiff is warned that the filing of an amended complaint **completely replaces** the original complaint. Claims that are not re-alleged in the amended complaint will be deemed abandoned. *See In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 928 (8th Cir. 2005) (“It is well-established that an amended complaint supersedes an original complaint and renders the original complaint without legal effect”). If Plaintiff fails to file an amended complaint on a Court-provided form within twenty-one (21) days in accordance with the instructions set forth herein, the Court will dismiss this action without prejudice and without further notice to Plaintiff.

Filing fee

Finally, Plaintiff has neither paid the \$400 filing fee, nor sought leave to proceed without the prepayment of fees or costs. If Plaintiff files a motion to proceed in forma pauperis, it must be accompanied by a certified copy of his inmate account statement for the six-month period immediately preceding the filing of the complaint. Also, if Plaintiff files such a motion, the Court will review the amended complaint pursuant to 28 U.S.C. § 1915. Plaintiff’s failure to make specific factual allegations against a defendant will result in the dismissal of that defendant. If Plaintiff fails to pay the filing fee or file an application to proceed without prepayment, within twenty-one (21) days, the Court will dismiss this action without prejudice and without further notice.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to mail to Plaintiff a copy of the Court’s “Prisoner Civil Rights Complaint” form.

IT IS FURTHER ORDERED that the Clerk is directed to mail to Plaintiff a copy of the Court’s motion to proceed in forma pauperis form.

IT IS FURTHER ORDERED that Plaintiff must file an amended complaint on the Court’s form within **twenty-one (21) days** of the date of this Order.

IT IS FURTHER ORDERED that Plaintiff must either pay the \$400 filing fee or file a motion to proceed in forma pauperis within **twenty-one (21) days** of the date of this Order.

IT IS FINALLY ORDERED that if Plaintiff files a motion to proceed in forma pauperis, he must also file a certified copy of his inmate account statement for the six-month period preceding the filing of the complaint.

If Plaintiff fails to timely comply with this order, the Court will dismiss this action without prejudice and without further notice.

Dated this 13th day of January, 2021.



SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE